

OakBridgeAlert:

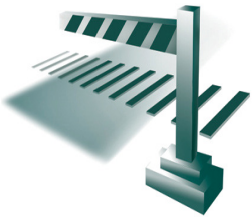
Private Company D&O Marketplace Reaches a Tipping Point

We appear to have reached a tipping point in the management liability market for private companies. Private company management liability policies typically include a broad mix of Directors & Officers (D&O), Employment Practices Liability (EPL), Fiduciary Liability, Crime and Kidnap & Ransom coverage. The premiums have historically been relatively low, at least as compared to public company D&O and stand-alone EPL policies for large employers. It has become increasingly clear that the management liability market is no longer in a prolonged “soft market”.

Although there are dozens of direct insurers and MGAs underwriting management liability policies for private companies, the quality of coverage provided by the various underwriters is uneven. We market your accounts to a select group of carriers chosen for their claims philosophy and track record, outstanding service, competitiveness and commitment to the industry. These carriers have agreed to a broad suite of coverage endorsements which they include on every quotation that they provide to us. They have consistently earned our continuing trust by rapid and responsive service, fair and effective claims-handling and consistent ability to offer competitive premiums and retentions which allow you to retain and win business.

It is against this backdrop that we can now say that we are witnessing a market shift in terms of premium, retention and breadth of coverage. Of the markets we typically approach, all but two have stated that they will be looking to increase premium or otherwise tighten up coverage on renewals. Typically, there is no “across the board” mandate for a certain percentage increase; however, the message is clear. It will be the rare account that gets a decrease. Some may stay “flat” but most will receive varying degrees of premium increases.

State of domicile, nature of operations, loss history and financial condition are the criteria most closely associated with the likelihood of a premium increase. How each carrier assesses these factors differs and is a function of the composition of that particular carrier’s book of business and profitability.



The main driver of the market shift is the carriers' loss experience arising from Employment Practices Liability claims. The frequency and severity of EPL claims has increased dramatically - and D&O claims, while less frequent, are becoming more severe. According to a 2010 Private Company survey engineered by Chubb, 12% of respondents experienced a D&O lawsuit within the past five years. The costs to settle and/or litigate those cases averaged \$225,682 – with some losses approaching \$5 million.

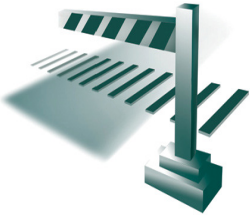
Below is a list of some of the “remedial actions” carriers are taking in response to their management liability books deteriorating profitability:

Carriers are taking a variety of “Corrective Actions”

- Across the board premium increase of 5% - 10%
- Higher premium increase in specified states (in particular, California)
- Premium increase by industry (life sciences, real estate)
- Cutting back on Wage & Hour defense sub-limit, or no longer offering any coverage
- Restricting “notice provisions”
- Removing 100% pre-set allocation of defense costs
- Officially non-renewing accounts with claims

In addition to the above mentioned strategies, we are also seeing carriers “constructively non-renew” accounts by only offering to renew at a substantial premium increase - but these instances are relatively rare; and, thus far, we have had no trouble replacing coverage on more reasonable terms.

We will continue to keep you updated as necessary, but in the meantime, please expect that private company renewals will become more difficult and please prepare your clients accordingly. Naturally, we will be canvassing the market on your behalf to assure that your clients continually secure the most competitive private management liability policies.



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RSG was founded by Mr. Patrick G. Ryan, the retired Chairman and CEO of Aon Corporation. A highly regarded insurance veteran, Mr. Ryan saw the need for a specialty organization devoted exclusively to creating sophisticated insurance and risk management solutions for a select group of hard-to-place risks.

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